THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.9297 of 2006

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DATED:28-04-2006

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BETWEEN

D. Ghouse Khan and another.

…PETITIONERS

AND

The Cuddapah Municipal Corporation, rep. By its Commissioner, Cuddapah District and others.

…RESPONDENTS

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.9297 of 2006

ORDER:

Petitioners seek a Writ of Mandamus to declare the action of first respondent in

asking them on 15-04-2006 to surrender the original sale deeds along with the premises bearing Municipal No.10/89, situated at Bellary Road, Cuddapa, pertaining to the first petitioner's tenancy and Municipal door Nos. 4/669 and 4/670, Gunta Bazar, old Bus Stand, Cuddapa of the second petitioner, and threatening them to demolish the same without following due process of law, as illegal and arbitrary.

The case of the petitioners is that the second petitioner is the absolute owner and possessor of the property bearing municipal door Nos. 4/669, 4/670, situated at Gunta Bazar, Old Bus Stand, Cuddapa and the first petitioner is the tenant in respect of the property bearing Municipal Door No.10/89, situated at Bellary Road, Cuddapa and that since last several years, he has been in peaceful possession and enjoyment of the said property. It is stated that on 15-04-2006 the first respondent along with his staff visited the premises of the petitioners and directed the them to hand over the said premises along with the original documents, and threatened to demolish the same for the purpose of road widening.

The learned counsel for the petitioners submits that for the purpose of widening the road the respondents directed the petitioners to hand over the original documents of their premises and the respondents are proposing to demolish the same without following due procedure prescribed in law. He further submits that even under the Hyderabad Municipal Corporation Act, 1965 (for short 'the Act') without acquiring the lands of the private citizens, portion of any property cannot be taken away for the purpose of road widening, either by way of private negotiations or by way of initiating proceedings under the Act. He further submits that the petitioners have not encroached any road and they have constructed the building or structures as per the approved plan only.

No doubt widening/laying of the road is in the public interest but while laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same by following due process of law. This Court disposed of number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law

or private negotiations.

Having regard to the facts and circumstances of the case, the respondents are directed not to demolish or take away any portion of the property of the petitioners and not to dispossess them without following due process of law under Section 146 or 147 of the Act.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

Dated: 28-04-2006

Note: Issue CC by tomorrow.

(Bo)

sj